

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ESPN, INC.,

Plaintiff,

v.

T-MOBILE USA, INC.,

Defendant.

CASE NO. MS05-136

ORDER

I. INTRODUCTION

This matter comes before the court on the motion of Plaintiff ESPN, Inc. (“ESPN”) to compel Defendant T-Mobile USA, Inc. (“T-Mobile”) to appear for a deposition in response to ESPN’s subpoena (Dkt. # 1). Having reviewed the motion together with all documents filed in support and in opposition, and having discussed the motion with the parties in an August 24, 2005 teleconference, the court GRANTS ESPN’s motion.

II. BACKGROUND AND ANALYSIS

ESPN is the opposer in an trademark opposition against T-Mobile’s parent company, Deutsche Telekom AG (“DT”), before the Trademark Trial and Appeal Board (“TTAB”). With discovery set to close on July 5, 2005 in the TTAB proceeding, ESPN served a subpoena under authority of this court on T-Mobile USA (whose corporate

1 headquarters are in Seattle) on June 28, 2005. The subpoena directed T-Mobile to
2 produce a representative for deposition on July 5, 2005.

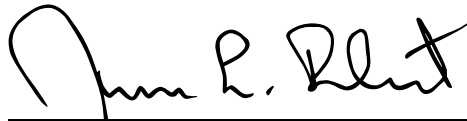
3 The only facts of consequence to this motion demonstrate T-Mobile's disregard of
4 its obligations in responding to the subpoena. T-Mobile claims that it has no knowledge
5 relevant to the TTAB proceeding, and that ESPN did not allow it a reasonable time to
6 respond to the subpoena. Any of these assertions might have been persuasive to the court
7 had they been part of a timely motion to quash or modify the subpoena pursuant to Fed.
8 R. Civ. P. 45(c)(3)(A). Instead of filing a motion, however, T-Mobile asserted its
9 purported defenses in a letter to counsel and refused to provide a representative for
10 deposition. T-Mobile provides no authority excusing its failure to comply with the
11 Federal Rules.
12

13 III. CONCLUSION

14 The court therefore GRANTS ESPN's motion to compel (Dkt. # 1). T-Mobile
15 shall provide a representative for deposition no later than September 23, 2005.
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17 Dated this 12th day of September, 2005.

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JAMES L. ROBART
United States District Judge